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Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21

Andorra*

The present report is a summary of three stakeholders' submissions[1] to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Human Rights Council resolution 16/21, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

* The present document was not edited before being sent to United Nations translation services.

Information provided by stakeholders

A. Background and framework

1. Scope of international obligations

1. The European Commission against Racism and Intolerance (ECRI) recommended that the Andorran authorities enact the necessary provisions to remove the impediments towards ratification of the International Covenant on Economic, Social and Cultural Rights. It reiterated its recommendation to ratify the Framework Convention for the Protection of National Minorities, the Convention relating to the Status of Refugees, the International Convention on the Protection of the Rights of All Migrant Workers and members of their Families and the European Charter for Regional or Minority Languages.[2]

2. ECRI recommended that Andorra become a member of the ILO and then ratify its Convention No. 111.[3]

3. ECRI further recommended that Andorran authorities give a decisive impetus to the ratification of the UNESCO Convention against Discrimination in Education.[4]

2. Constitutional and legislative framework

4. The Group of Experts on Action against Trafficking in Human Beings (GRETA) urged the Andorran authorities to adopt a provision defining the offence of trafficking in human beings in line with the requirements of Article 4 of the European Convention without delay.[5]

5. ECRI recommended that the Andorran authorities amend qualified law 15/2003 with a view of introducing the systematic collection of information in different policy areas, including employment, housing and education, broken down by ethnic origin, language, religion and citizenship. Respect for the principles of confidentiality, informed consent and the voluntary self-identification of persons as belonging to a particular group should be ensured.[6]

3. Institutional and human rights infrastructure and policy measures

6. ECRI strongly recommended that the Andorran authorities ensure the existence of a body with specialised capacity to combat racism, racial discrimination, xenophobia, anti-Semitism and intolerance at national level along the lines proposed in its General Policy Recommendation Nos. 2 and 7 on specialised bodies and on national legislation to combat racism and racial discrimination. This body should, inter alia, monitor the content and effect of legislation on issues related to racial discrimination, advise both the legislative and executive authorities on such issues and have recourse to the courts if and when necessary.[7]

7. ECRI strongly recommended that the work of the National Equality Commission be used to devise and coordinate an integration policy. This policy should, inter alia, address the problems faced by seasonal workers, raise the awareness of the public on the importance of the various communities present in Andorra and strive to increase the level of integration of non-Andorrans.[8]

8. ECRI recommended that compulsory courses be organised for primary school pupils on human rights and the culture of the different communities living in Andorra.[9]

9. ECRI recommended that the Andorran authorities explore ways to introduce the possibility of having dual citizenship in national legislation and to include this issue in the

discussions between the authorities and NGOs, civil society under the National Equality Plan.[10]

10. ECRI recommended that the Andorran authorities provide additional tools, other than those already available, for the preparation of the examinations on Catalan language and Andorran culture that are due to be introduced in order to test the "level of integration" of temporary residents.[11]

11. ECRI reiterated its recommendation to the Andorran authorities to encourage any initiative aimed at offering journalists training in human rights in general and in issues concerning the fight against racism and racial discrimination, in particular.

B. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

12. ECRI recommended that, once comprehensive legislation aimed at combating discrimination is in place, the authorities carry out a campaign aimed at raising society's awareness on discrimination and the avenues available to seek redress. It also reiterated its recommendation to make the criminal law provisions relating to racism and intolerance known to the general public and particularly to potential victims of this type of crime.[12]

13. ECRI strongly recommended that the Andorran authorities strengthen the collection of data on the application of criminal law provisions punishing racist offences so that their effectiveness can be assessed. ECRI recommended that one institution be mandated to centralise the collection of this data and ensure that it is broken down according to the following categories: number of opened investigations; cases referred to court; discontinued pretrial investigations; and the outcome of the trials, per reference year.

14. ECRI recommended that the Andorran authorities strengthen the criminal legislation in place relating to racism and intolerance and introduce in the Criminal Code a provision prohibiting public incitement to violence, hatred and discrimination.[13]

15. According to the Council of Europe, the criminal legislation in place relating to racism and intolerance is not exhaustive. The possibility for seeking redress for forms of discrimination based on citizenship are limited and a fully fledged integration policy is not yet in place. Specific training on racism and racial discrimination should be provided to judges, prosecutors and lawyers.[14]

2. Right to life, liberty and security of the person

16. The Commissioner of the Council of Europe considered it necessary to reinforce the national system in order to ensure that the country has a national mechanism for the prevention of torture.[15]

17. The Commissioner of the Council of Europe recommended that the authorities continue to give priority to extending assistance to victims of domestic violence and to allow longer stays in the shelter. "As in other places, in Andorra, victims of domestic violence tend to suffer in silence. Measures to better protect such persons, who are predominantly women, should be adopted, including a wider use of restraining orders to oblige offenders to leave the house, the adoption of a specific law addressing gender-based violence, awareness-raising to dismantle cultural stereotypes and measures to address the reluctance of those subject to violence to report the problem."[16]

18. GIEACPC stated that in Andorra, corporal punishment of children is lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child, the

Committee Against Torture, the European Committee of Social Rights and during the 1st cycle UPR in 2010 (accepted by the Government).[17] In 2012, the European Committee of Social Rights concluded that the situation in Andorra is not in conformity with article 17 of the European Social Charter because corporal punishment is not explicitly prohibited in the home, schools and institutions. The Commissioner of the Council of Europe called for an explicit prohibition of corporal punishment of children.[18]

19. GRETA invited the Andorran authorities to consider what measures might be envisaged for groups vulnerable to trafficking, particularly children, women in need of protection and assistance or migrant workers.[19]

20. GRETA urged the Andorran authorities to adopt measures making it possible to proactively identify victims of trafficking and refer them to assistance. GRETA noted the existence of assistance for women victims of violence and stressed the need for legislative or other measures to provide assistance to all victims of human trafficking, regardless of the form of exploitation, and help them with their physical, psychological and social recovery.[20]

21. GRETA called on the Andorran authorities to provide in law for a recovery and reflection period for victims of trafficking and the possibility of issuing them with renewable residence permits.[21] Given the link there could be between the lack of training and identifying victims of trafficking, GRETA considered that the Andorran authorities should ensure that all the professionals concerned (law enforcement agency officials, judges and prosecutors, labour inspectors, lawyers, social workers, child welfare professionals, medical staff and other groups concerned) are sensitised to trafficking in human beings (THB), in particular the definition of human trafficking, indicators of human trafficking, distinguishing THB from migrant smuggling, detection of vulnerable groups, as well as on identification, assistance and compensation of victims, and that NGOs and trade unions are also sensitised.[22]

22. GRETA considered that the Andorran authorities should carry out initiatives to raise awareness of THB and the different forms of exploitation it entails, aimed at the general public (including in schools), civil society and the economic sectors traditionally exposed to trafficking.[23]

3. Administration of justice, including impunity and the rule of law

23. The Council of Europe selected for priority implementation the principle of the sharing of the burden of proof when discrimination complaints before civil/administrative courts; the training of judges, prosecutors and lawyers on racism and racial discrimination, including on relevant criminal legislation; and the work of the National Equality Commission to devise and coordinate an integration policy.[24]

24. The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) expressed reservations about the manoeuvring room provided to law enforcement officers by the fact that they had a period of up to five hours in which to provide notification of custody in the case of adults. It was of the opinion that the right of people who have been deprived of their liberty to notify a relative or other person of their choice of that fact should be enforceable as soon as they are taken into custody.[25]

25. CPT recommends that the central unit of the Escaldes-Engordany detention centre be equipped with an outdoor exercise yard to which all persons deprived of their liberty for more than 24 hours should have access each day. It is all the more important to meet this need because the cells do not provide access to natural light. In addition, steps should be taken to ensure that all cells that are built in future provide access to daylight.[26]

26. The Group of States against Corruption (GRECO) noted that partial improvements with regard to bribery of jurors and arbitrators. It remained for Andorra to ratify the Protocol to the Criminal Law Convention, which should be a formality. Andorra continued, however, to avail itself of its right of reserve regarding bribery offences in the private sector and trading in influence. The country will also need to review a number of questions, such as those relating to extraterritorial jurisdiction of its judicial authorities or the conditions under which liability may be extinguished based on the "effective regret" provision.[27]

27. On 22 November 2013, GRECO published its Third Round Compliance Report on Andorra. In its report, GRECO concluded that Andorra has implemented satisfactorily only three of the twenty recommendations contained in the Third Round Evaluation Report. Andorra is undoubtedly the only GRECO country at present where, overall, the penalties for bribery and trading in influence are so low.[28]

4. Right to privacy, marriage and family life

28. The Commissioner of the Council of Europe called upon the Andorran government to ease the requirements to apply for Andorran citizenship. "As the Andorran authorities themselves have recognised, the 20-year residence requirement is far too long". In this connection the Commissioner recommended the ratification by Andorra of the European Convention on Nationality.[29]

5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political

29. With regard to transparency of political party funding, GRECO noted that many questions have not yet been sufficiently discussed: these include the question of whether political parties would actually be governed by the new regulations rules and the harmonisation and interlinking of the above-mentioned two texts. Other aspects required further clarification, for example as regards the annual publication of parties' accounts. GRECO strongly encouraged Andorra to carry through the planned reforms, but also to give further thought to the points in abeyance and those which seem to pose problems, such as future publication of the names of major donors, which is an important aspect in terms of the general transparency of political funding.[30]

6. Right to social security and to an adequate standard of living

30. ECRI recommended that the Andorran authorities reduce the residency requirements to be eligible for housing benefits to three years, in all cases, including when housing subsidies are provided at municipal level or by the Ministry of Housing.[31]

7. Persons with disabilities

31. Discrimination against persons with disabilities in employment, education, access to health care, or in the provision of other state services is prohibited. However, non-governmental organisations have pointed out that there was a gap in what was written in the law and the situation in reality. "This gap must be bridged" stated the Commissioner of the Council of Europe: "there is the need to increase the awareness about the rights of persons with disabilities and the removal of all barriers, physical and cultural, which impede persons with disabilities from living in dignity".[32]

8. Minorities and indigenous peoples

32. Andorra has not yet signed or ratified the Framework Convention for the Protection of National Minorities. For this reason, it not yet concerned by the monitoring procedure undertaken by the Council of Europe Advisory Committee on this Convention. Andorra has

not yet signed or ratified the European Charter for Regional or Minority Languages. Thus, the country is not yet covered by the monitoring carried out by the Committee of Independent Experts under the Charter.[33]

9. Migrants, refugees and asylum seekers

33. ECRI reiterated its recommendation that the Andorran authorities enact legislation on asylum seekers and refugees which is consistent with international standards.[34]

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.

Civil Society:

Individual submissions:

GIEACPC	Global Initiative to End All Corporal Punishment of Children, London (United Kingdom of Great Britain and Northern Ireland).

Regional intergovernmental organization(s):

COE	The Council of Europe, Strasbourg (France);
OSCE-ODIHR	Organization for Security and Co-operation in Europe – Office for Democratic Institutions and Human Rights, Warsaw (Poland).

[2] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[3] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[4] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[5] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[6] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[7] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[8] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[9] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[10] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[11] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[12] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[13] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[14] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[15] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[16] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[17] Submission from Global Initiative to End All Corporal Punishment for the UPR, 22nd Session, 2015.
[18] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[19] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[20] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[21] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[22] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[23] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[24] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[25] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[26] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[27] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[28] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[29] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[30] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[31] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[32] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[33] Council of Europe contribution for the 22nd UPR session (19.09.2014).
[34] Council of Europe contribution for the 22nd UPR session (19.09.2014).